

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARCUS DANIEL CHAVARRIA,

No. C 01-02242 SI

Petitioner,

**ORDER TO FILE RESPONSIVE
PLEADING**

v.

JIM HAMLET,

Respondent.


On March 24, 2003, this Court denied Chavarria's pending petition for writ of habeas corpus. On April 29, 2003, the Court issued a certificate of appealability as to certain issues raised in the petition. Petitioner appealed to the United States Court of Appeals for the Ninth Circuit, where he evidently requested either remand or dismissal in order to amend his original habeas petition to assert a claim based on ineffective assistance of appellate counsel. On June 27, 2007, the Ninth Circuit issued a judgment dismissing the appeal and remanding to this Court in order for petitioner to request permission to amend his petition and for this Court to "determine in the first instance whether amendment should be allowed." When no motion to amend was forthcoming, this Court on August 2, 2008 ordered petitioner to file a motion for leave to amend his habeas petition by August 26, 2008, should he still wish to amend. The Court granted petitioner's motion to extend the deadline to September 8, 2008, and petitioner did timely file his motion to amend.

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Respondent has not filed any pleadings in opposition to the motion to amend the habeas petition.
If respondent wishes to submit an answer to petitioner's motion, respondent must do so no later than
February 13, 2009. Petitioner may file a reply, if appropriate, no later than February 27, 2009.

IT IS SO ORDERED.

Dated: January 26, 2009



SUSAN ILLSTON
United States District Judge